



Department of Justice

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JUSTICE DEPARTMENT URGES RHODE ISLAND SENATE TO CONTINUE ALLOWING NONLAWYERS TO CLOSE REAL ESTATE DEALS

WASHINGTON, D.C. -- The Department of Justice's Antitrust Division issued a letter urging the Rhode Island Senate to reject a proposed bill that would prevent nonlawyers from competing with lawyers to perform real estate closings. In the letter sent yesterday, June 30, the Department expressed concern that the bill would likely cause Rhode Island consumers and businesses to pay more for real estate closings and prevent them from benefitting from competition from out-of-state and Internet lenders that could provide more convenient closing services.

The bill was passed by the Rhode Island House of Representatives on June 25. If the bill is passed by the Senate and signed into law, it will end the long history of competition between Rhode Island lawyers and lay people to close real estate deals. Instead, consumers would be required to hire lawyers to represent them through the closing process.

"The bill will likely raise prices for Rhode Islanders in two ways," said R. Hewitt Pate, Assistant Attorney General in charge of the Justice Department's Antitrust Division.

"Consumers who would not pay for a lawyer would have to do so; traditionally, lawyers charge more than lay providers. Second, without competition from nonlawyers, lawyers' fees are likely to increase."

The bill being considered by the Senate is House Bill No. 5936, entitled, "An Act Relating To Criminal Offenses - Law Practice." After being passed by the Rhode Island House

of Representatives, the bill was referred to the Senate Commerce, Housing, and Municipal Government Committee on June 26, 2003. The bill covers virtually all real estate transactions, including residential and commercial deals and purchases, refinancings, second mortgages and other transactions.

A similar bill was introduced last year but did not become law. The Department and the Federal Trade Commission had urged the Rhode Island legislature to reject that bill.

For more information on the letter, contact Renata B. Hesse, Chief of the Networks and Technology Section, at 202/307-6200. Copies of the documents mentioned in this release are available from the Department of Justice. The Department's website is <http://www.usdoj.gov/atr>. Paper copies of the documents are also available from the Justice Department's Antitrust Documents Group, which can be contacted by phone: 202/514-2481, fax: 202/514-3763, or e-mail: atrdocs.grp@usdoj.gov.

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DEPARTMENT OF JUSTICE

Antitrust Division

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June 30, 2003

The Honorable William V. Irons
President of the Senate
State Senate
Providence, Rhode Island 02903

The Honorable Joseph A. Montalbano
Majority Leader of the Senate
Majority Leader's Office
State Senate
Providence, Rhode Island 02903

The Honorable Dennis L. Algieri
Minority Leader of the Senate
Minority Leader's Office
State Senate
Providence, Rhode Island 02903

Members of the Senate Commerce, Housing,
and Municipal Government Committee
c/o The Honorable John A. Celona, Chairperson
State Senate
Providence, Rhode Island 02903

Members of the Senate Judiciary Committee
c/o The Honorable Michael J. McCaffrey, Chairperson
State Senate
Providence, Rhode Island 02903

Re: House Bill No. 5936, Proposed Restrictions on Competition
From Non-Attorneys In Real Estate Closing Activities

Dear Mr. President and Members of the Senate:

We understand that the Rhode Island House of Representatives recently passed a bill that would amend the definition of "practice of law" to require lawyers to represent buyers in virtually all aspects of the real estate closing process. House Bill No. 5936, entitled, "An Act Relating To Criminal Offenses - Law Practice," was referred to the Senate Commerce, Housing, and Municipal Government Committee June 26, 2003. It is presently scheduled to be heard on Tuesday, July 1, 2003.

This bill is very similar to House Bill No. 7462, considered by the House of Representatives last year. The Department of Justice and the Federal Trade Commission urged the House to reject that bill because it would have restrained competition between lawyers and nonlawyers for real estate closing business, likely resulting in increased costs for Rhode Island consumers. The current bill raises many of the same concerns as House Bill No. 7462 did. Accordingly, we urge the General Assembly to reject the current legislation for the reasons stated in our March 29, 2002 letter.¹ A copy of our 2002 letter is attached.

Sincerely yours,

R. Hewitt Pate
Assistant Attorney General
United States Department of Justice
Antitrust Division

¹ The bill primarily differs from the old bill in one respect. The new bill will allow realtors to answer questions about purchase and sale agreements and other issues that the old bill would have forbidden. This change does not diminish our concerns about the potential anticompetitive impact of the bill and we urge its rejection.